

MONTANA LEGISLATIVE HISTORY

BEST COPY
AVAILABLE

Chapter 585 19 92

Bill H _____ S 362 Original bill & history / c

H. Committee on Business & Economic Development S. Committee on Judiciary

Hearing Date(s) Mar 09 ✓ c Hearing Date(s) Feb 18 ✓ c

_____ c

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Date Out Mar 09 ✓ c

Feb 18 ✓ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Free Conference Committee

Apr 14

SB 362 INTRODUCED BY BIANCHI

ESTABLISH PROCEDURE FOR LANDLORD'S ACTION FOR POSSESSION

2/11	INTRODUCED		
2/11	REFERRED TO JUDICIARY		
2/11	FIRST READING		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	50	0
2/22	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/23	FIRST READING		
3/09	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED		
3/12	2ND READING CONCURRED AS AMENDED	69	27
3/15	3RD READING CONCURRED	81	17
	RETURNED TO SENATE WITH AMENDMENTS		
3/18	MOTION TO CONCUR WITH AMENDMENTS		
	ON 2ND READING FAILED	23	24
3/18	2ND READING AMENDMENTS NOT CONCURRED	34	15
3/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	48	1
4/20	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	45	2
	HOUSE		
4/05	FREE CONFERENCE COMMITTEE APPOINTED		
4/19	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/20	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	93	5
4/20	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	92	7
4/23	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 585		
	EFFECTIVE DATE: 04/28/93		

SB 363 INTRODUCED BY BIANCHI

TEMPORARILY CLOSE CERTAIN BASINS TO FURTHER APPROPRIATIONS

2/11	INTRODUCED
2/11	REFERRED TO NATURAL RESOURCES
2/11	FIRST READING
2/16	FISCAL NOTE REQUESTED
2/17	HEARING
2/19	TABLED IN COMMITTEE
2/22	FISCAL NOTE RECEIVED
2/22	FISCAL NOTE PRINTED

SB 364 INTRODUCED BY RYE, ET AL.

RESTRICT CERTAIN ZONING REGULATIONS

2/11	INTRODUCED
2/11	REFERRED TO LOCAL GOVERNMENT
2/11	FIRST READING
2/16	HEARING

SENATE BILL NO. 362

INTRODUCED BY BIANCHI

IN THE SENATE

FEBRUARY 11, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

FEBRUARY 19, 1993 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 20, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 22, 1993 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 48; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FIRST READING.

MARCH 9, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 11, 1993 ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 12, 1993 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 15, 1993 THIRD READING, CONCURRED IN.
AYES, 81; NOES, 17.

MARCH 16, 1993 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1993 SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, PREVIOUS ACTION
RECONSIDERED

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 22, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 5, 1993

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1993

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 20, 1993

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 20, 1993

FREE CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 362
2 INTRODUCED BY Reamick
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A 10-DAY
5 LIMIT WITHIN WHICH A COURT IS REQUIRED TO SET A HEARING DATE
6 IN A LANDLORD'S ACTION FOR POSSESSION; SETTING A 5-DAY LIMIT
7 WITHIN WHICH THE COURT IS REQUIRED TO RULE ON AN ACTION FOR
8 POSSESSION; AMENDING SECTION 70-24-427, MCA; AND PROVIDING
9 AN IMMEDIATE EFFECTIVE DATE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 70-24-427, MCA, is amended to read:13 "70-24-427. Landlord's remedies after termination --
14 action for possession. (1) If the rental agreement is
15 terminated, the landlord has a claim for possession and for
16 rent and a separate claim for actual damages for any breach
17 of the rental agreement.18 (2) An action filed pursuant to subsection (1) in a
19 justice's court must be heard within 10 days after the
20 tenant's appearance or answer date stated in the summons. If
21 the action is appealed to the district court, the hearing
22 must be held within 10 days after the case is submitted to
23 the district court by the justice's court.24 (3) The landlord and tenant may stipulate to a
25 continuance of the hearing beyond the time limit in1 subsection (2) without the necessity of an undertaking.2 (4) In a landlord's action for possession filed
3 pursuant to subsection (1), the justice's court or district
4 court shall rule on the action within 5 days after the
5 hearing."6 **NEW SECTION. Section 2.** Effective date. [This act] is
7 effective on passage and approval.

-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 362

Call to Order: By Senator Jeff Weldon, Chair, on April 14, 1993,
at 4:15 p.m.

ROLL CALL

Members Present:

Sen. Jeff Weldon (D), Chairman
Sen. Tom Beck (R)
Sen. Don Bianchi (D)
Rep. Vicki Cocchiarella (D)

Members Excused:

Rep. Norm Mills (R)
Rep. Ray Brandewie (R)

Members Absent:

None.

Staff Present: Laura Turman, Committee Secretary
Susan Fox, Legislative Council

Discussion:

Sen. Beck asked Sen. Weldon if he knew what the House wanted to do with SB 362.

Sen. Weldon said the House was in session, and it was unlikely that Rep. Mills and Rep. Brandewie would be present for the meeting. Sen. Weldon said the initial title of SB 362 did not match the body of the bill. The original title stated that the ten day limit was the time in which the court was required to set a hearing date, not to have the hearing. Sen. Weldon said that Sen. Bianchi's original intent was to have the hearing within ten days. Those who represent the interest of the tenants and those who represent the interest of the courts have reached a compromise. Sen. Weldon provided Committee members with the amendments (Exhibit #1)

Sen. Bianchi asked why the five days and the ten days had both been changed to twenty.

Craig Hoppe, Montana Magistrates Association, said the five days was left as it was. The reason the ten days was changed to 20 was they wanted to choose a realistic time for all courts. For courts with larger case loads and for district courts, ten days was unrealistic.

Sen. Bianchi said he had no problem with that change.

Craig Hoppe said this would also give an attorney a reasonable amount of time to prepare a defense.

Mr. Hoppe went over the amendments. Mr. Hoppe said Greg Pettish told him that the Governor had already signed a couple of bills in which "justice court" was specifically mentioned. Mr. Pettish wanted to add a new section to the bill, and provided a hand-written note concerning new language. (Exhibit #2). Mr. Hoppe read that new section. This language would clean up all the other bills (regarding justice courts) signed by the Governor.

Sen. Tom Beck said that language was "clean up."

Motion:

Sen. Bianchi moved the Committee adopt the amendments including the new section. (Exhibits #1 and #2)

Vote:

The motion carried UNANIMOUSLY.

Discussion:

Sen. Beck said if Rep. Mills and Rep. Brandewie sign the Committee Report, it is a done deal. If they do not want to sign it, the Committee can meet again.

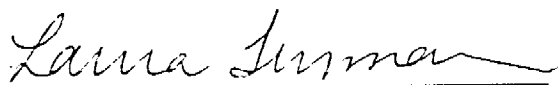
Susan Fox said only two of the three House members needed to sign the Report.

Sen. Weldon said he had talked with Rep. Brandewie and he said changing the dates to twenty days would be fine.

ADJOURNMENT

Adjournment: Sen. Weldon adjourned the meeting.


SENATOR JEFF WELDON, Chair


LAURA TURMAN, Secretary

(FREE) CONFERENCE COMMITTEE

DATE 4-12-93

[illegible]

Free Conference Committee
on Senate Bill No. 362
Report No. 1, April 15, 1993

Page 1 of 2

Mr. President and Mr. Speaker:

Your Free Conference Committee on Senate Bill No. 362, met
and considered:

Senate Bill No. 362 in its entirety

and recommend that Senate Bill No. 362 (reference copy - salmon)
be amended as follows:

1. Title, line 4.

Strike: "10-DAY"

Insert: "20-DAY"

1. Page 1, line 19.

Strike: "justice's"

Strike: "10"

Insert: "20"

1. Page 1, line 22.

Strike: "10"

Insert: "20"

Strike: "submitted"

Insert: "transmitted"

1. Page 1, line 23.

Following: the first "court"

Strike: the remainder of line 23 through the second "court"

1. Page 2, line 3.

Following: "the"

Strike: the remainder of line 3

1. Page 2, line 6.

Following: line 5

Insert: "NEW SECTION. Section 2. Coordination instruction. The
code commissioner shall remove references to specific courts
of original jurisdiction in new material enacted to be
codified as part of Title 70, chapter 24 or 25."

Number: subsequent section

AMPT

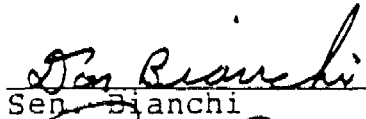
AMPT

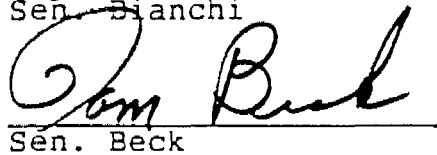
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And that this Free Conference Committee report be adopted.

For the Senate:


Sen. Weldon, Chair

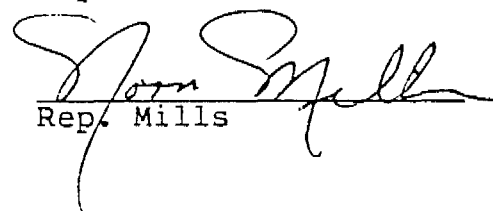

Sen. Bianchi


Sen. Beck

For the House:


Rep. Brandewie, Chair


Rep. Cocchiarella


Rep. Mills


Amd. Coord.
Sec. of Senate

Amendments to Senate Bill No. 362
Reference Bill as amended

Prepared by Craig Hoppe, Montana Magistrates Association
April 14, 1993

1. Page 1, line 19.
Delete: "justice's"
2. Page 1, line 19.
Strike: "10"
Insert: "20"
3. Page 1, line 22.
Strike: "10"
Insert: "20"
4. Page 1, line 22.
Strike: "submitted"
Insert: "transmitted"

[This amendment clarifies courts and amends the bill to allow 20 days instead of 10 days for hearing.]

3-11-102. Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justice's court of all misdemeanors and proceedings mentioned and provided for under chapter 10, part 3, of this title.

(2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed, the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court.

3-10-301. Civil jurisdiction. (1) Except as provided in subsection (2) and in 3-11-103, the justices' courts have jurisdiction:

(a) in actions arising on contract for the recovery of money only if the sum claimed does not exceed \$5,000, exclusive of court costs;

(b) in actions for damages not exceeding \$5,000, exclusive of court costs, for taking, detaining, or injuring personal property or for injury to real property when no issue is raised by the verified answer of the defendant involving the title to or possession of the real property;

(c) in actions for damages not exceeding \$5,000, exclusive of court costs, for injury to the person, except that, in actions for false imprisonment, libel, slander, criminal conversation, seduction, malicious prosecution, determination of paternity, and abduction, the justice of the peace does not have jurisdiction;

(d) in actions to recover the possession of personal property if the value of the property does not exceed \$5,000;

(e) in actions for a fine, penalty, or forfeiture not exceeding \$5,000, imposed by a statute or an ordinance of an incorporated city or town when no issue is raised by the answer involving the legality of any tax, impost, assessment, toll, or municipal fine;

(f) in actions upon bonds or undertakings conditioned for the payment of money when the sum claimed does not exceed \$5,000, though the penalty may exceed that sum;

(g) to take and enter judgment for the recovery of money on the confession of a defendant when the amount confessed does not exceed \$5,000, exclusive of court costs;

(h) to issue temporary restraining orders as provided in 40-4-121(3).

(2) Justices' courts do not have jurisdiction in civil actions that might result in a judgment against the state for the payment of money.

3-10-302. Jurisdiction over forcible entry, unlawful detainer, and residential landlord-tenant disputes. The justices' courts have concurrent jurisdiction with the district courts within their respective counties in actions of forcible entry and unlawful

detainer and in actions brought under Title 70, chapter 24.

3-10-303. Criminal jurisdiction. The justices' courts have jurisdiction of public offenses committed within the respective counties in which such courts are established as follows:

(1) jurisdiction of all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding 6 months or both such fine and imprisonment;

(2) jurisdiction of all violations of fish and game statutes punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine exceeding \$500 or imprisonment exceeding 6 months or both such fine and imprisonment;

(4) jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings;

(5) jurisdiction of all violations of Title 61, chapter 10; and

(6) all misdemeanor violations of Title 81, chapter 8, part 2.

3-10-304. Territorial extent of civil jurisdiction. The civil jurisdiction of a justice's court extends to the limits of the county in which it is held, and mesne and final process of a justice's court in a county may be issued to and served in any part of the county. A summons of a justice's court may be served as provided in 25-31-407.

Exhibit #2

4-14-93

New Section. Coordination instruction.

The Code Commissioner shall remove references to specific courts in new material enacted to be codified as part of Title 70, chapters 24 or

Questions From Committee Members and Responses:

REP. LARSON asked Melissa Case if SB 245, the wrongful eviction notice bill, addresses her concerns? Ms. Case said it definitely did. She said SB 245 addresses just the mobile home people, but there hasn't been any legislation for good cause for all renters. REP. LARSON asked Ms. Case to identify the difference between SB 245 and this bill? Ms. Case said the outline for eviction in SB 245 has five specific rules for eviction when a mobile home is situated on rented land.

CHAIRMAN BENEDICT asked Melissa Case if she has read SB 362, and if it addresses her concerns? Ms. Case said they do have a concern with SB 362 and will stand in opposition to it.

Closing by Sponsor:

SEN. WILSON said all SB 362 will do is return the amount of time from the 20 days period back to 10 days.

HEARING ON SB 362

Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, said SB 362 is a part of the Landlord/Tenant Act. When a landlord has given the tenant a 20-day notice to leave and they do not, it goes to court. If it is appealed, it then goes to district court, and may take six months to a year to hear the case. When a landlord is trying to evict someone and the case is in court, the landlord cannot collect the rent for that period of time until the court case is solved. He gave an example of a case in Bozeman where an elderly man rented his home for the winter while he went south for six months. When he returned he could not get the tenant out even though they had a six month agreement. He had to take it to court and it took him six months before he could get back into his own home. SB 362 states that when the 20 day notice is up and the tenant wants to fight the eviction in court, the judge has 10 days to hear the case, and 5 additional days after the case is heard for the tenant to leave.

Proponents' Testimony:

Greg Van Horssen, Income Property Managers Association and Montana Landlords Association, said the organizations strongly support SB 362. He said it represents a significant streamlining of the eviction process.

Lance Clark, Montana Association of Realtors, said they concur with the Landlords Association remarks.

Opponents' Testimony:

Melissa Case, Montana People's Action, said SB 362 will add an undue burden on the courts. She said the time period may cause an undue eviction and the low income people may not be able to find legal counsel. She asked that current law be left as is and asked for a be not concurred in recommendation.

Questions From Committee Members and Responses:

REP. SIMON asked SEN. BIANCHI if this bill isn't setting a precedent for priority in the courts, what happens to the judges if they are too busy? SEN. BIANCHI said there isn't any penalty. There are hearing officers that hear these types of complaints.

Closing by Sponsor:

SEN. BIANCHI said this is a fairness issue. When the landlords want to evict someone who won't leave, they are in court for six months to a year. He urged the committee to vote for SB 362.

HEARING ON SB 411

Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, said SB 411 is an act requiring a real estate broker operating under a franchise agreement to disclose the trade number, if any, by which the office is known and will require the broker who is also the principal to disclose that fact in advertising concerning the property. He said the reason for the bill is on page 5, lines 3 to 11 where it states that a sales person may not advertise a piece of property unless there is a written listing.

Proponents' Testimony:

Don McAndrew, Realtor, Bozeman, said there are realtors who have listed properties when they do not have a written contract, and have sold properties that aren't in existence. He told of an experience where he had a person from Tennessee who called him and asked to see a certain piece of property. He asked the broker who had the property listed, for information to send to this person in Tennessee. The man flew out and they went to the property where the owner of the ranch informed him it was not for sale and never had been. SB 411 will help the realtors police their actions, and add a few words to their current law.

Lance Clark, Montana Association of Realtors, said SB 411 is a basic housekeeping bill, and protection of the consumer for real property. He said the new language in subsection 2, page 5, resolves the problem for realtors and the consumer. It will require that a signed listing agreement must occur between the seller of the properties and the broker before the property is advertised. EXHIBIT 1

EXECUTIVE ACTION ON SB 386

Motion: REP. BRANDEWIE MOVED SB 386 BE CONCURRED IN.

Discussion: None

Motion/Vote: REP. BACHINI called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. WAGNER AND COCCHIARELLA voting no.

Vote: SB 386 BE CONCURRED IN. Motion carried 16 - 2.

EXECUTIVE ACTION ON SB 362

Motion: REP. BRANDEWIE MOVED SB 362 BE CONCURRED IN.

Discussion: REP. SIMON said he is against the do pass motion. He felt the courts should be able set their own priorities for which cases are urgent.

REP. DOWELL said if this bill was a problem for the courts the judges would have testified. He said these are on-going cases and if it is taken care of in the courts, maybe something will be done.

Motion/Vote: REP. BRANDEWIE called the question. Voice vote was taken. Motion carried 16 - 2 with REPS. COCCHIARELLA AND SIMON voting no.

Vote: SB 362 BE CONCURRED IN. Motion carried 16 - 2.

EXECUTIVE ACTION ON SB 411

Motion: REP. BRANDEWIE MOVED SB 411 BE CONCURRED IN.

Discussion: REP. BRANDEWIE offered an amendment. On page 5, line 9, following "advertisement" insert "sub (b)". EXHIBIT 5

REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. BRANDEWIE MOVED SB 411 BE CONCURRED IN AS AMENDED. REP. BACHINI called the question. Voice vote was taken. Motion carried unanimously.

Vote: SB 411 BE CONCURRED IN AS AMENDED. Motion carried 18 - 0.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE

3-9-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS			✓
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Business & Ec. COMMITTEE BILL NO. SB 362
DATE March 9, 1993 SPONSOR(S) H. Bianchi
PLEASE PRINT PLEASE PRINT PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

honor the responsibility and integrity that judicial positions require.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

Senator Blaylock noted it was Chief Justice Turnage's decision which had put the state in such desperate financial straits that it cannot afford to pay salaries commensurate to other states or to what most Montanans see as deserved. He asked Senator Yellowtail where Chief Justice Turnage might suggest to find the money necessary to fund an increase in judicial salaries. Senator Yellowtail replied he would not defend Chief Justice Turnage's former decisions and added Senator Blaylock's points were well taken. He stated, however, Montana should have the means of paying for an increase in judicial salaries. He noted SB 336 would ask only that judicial salaries be considered along with the salaries of other state employees this session. He stated the judges "are throwing themselves on the mercy of the Legislature" in this regard.

Senator Blaylock asked if SB 336 would grant judges a three percent raise on their current salaries if the Legislature saw fit to grant state employees a three percent raise. Senator Yellowtail replied yes.

Senator Blaylock noted SB 336 would mean that the judges would receive by far the biggest pay raise in absolute dollars. Senator Yellowtail stated he had an amendment to offer which would clarify the definition of percentage raise (Exhibit #4). He stated this amendment would clarify that judicial salaries would be raised the average of those wage increases granted to state employees if the percentages varied.

Closing by Sponsor:

Senator Yellowtail said Montana holds the judicial branch in highest esteem, but forces its judges to continually plead for an increase in their salaries. He stated SB 336 would provide some relief for judges and would establish a mechanism by which Montana's judicial salaries can keep up with inflation. He added, however, Montana will remain "dead last" in the country in terms of judicial salaries. Senator Yellowtail recommended SB 336 as a modest approach to addressing this problem.

HEARING ON SENATE BILL 362

Opening Statement by Sponsor:

Senator Bianchi, Senate District 39, said SB 362 would amend the Landlord Rental Tenant Act which currently allows tenants up to 20 days to file a complaint when landlords give them notice of termination. He explained that after the complaint is filed, the justice court places the action on the normal trial docket which means, in some courts, months can pass before the court hears the case. He stated during that entire process, a landlord who is trying to vacate a rental unit cannot collect rent. He said SB 362 would direct the justice court to act within 10 days of the filing date of a landlord's complaint. He stated if the action is appealed to district court, the district court would also be required to act within a 10 day period on that complaint.

Proponents' Testimony:

James Screnar, Bozeman Attorney, said he was representing a landlord in the Bozeman area and stated the current law creates an unfair situation for both landlords and tenants. He said if the tenant does not vacate the rental property after receiving proper notice or if there are extenuating circumstances, the landlord is required to file an action for possession in justice court. He noted that the 20 day period for response under SB 362 give the justice court a fair amount of time to respond and would not place too much of an additional burden on the court. He noted that the Bozeman justice court judges are scheduling such hearings and taking action within 10 days. Mr. Screnar said the problem in Bozeman arises when a tenant appeals the decision of the justice court to district court. He noted that such cases usually "fall into the black hole" of the district court's trial schedule.

Mr. Screnar outlined an example for the Committee in which the current system had caused a major delay in the resolving of landlord tenant issues. He stated a justice court decision of January 1992 had been appealed to district court, which then handed down its decision in January 1993. He noted that the judge found in favor of the landlord, but the tenant had been able to remain in the rental unit for an entire year without paying rent. Mr. Screnar commented that such extended time periods create very volatile situations in which there is an extreme potential for violence on the side of both the landlord and the tenant. He stated landlords currently have no recourse in such a situation; they cannot accept a rent check during the waiting period because that would constitute accepting that person's tenancy and would nullify the entire process. He urged the Committee to support SB 362 both in fairness to landlords and to cut down on the potential for violence.

Greg Van Horssen, Income Property Managers Association and Montana Landlords Association, expressed the strong support of both organizations he represented for SB 362. He noted that the organizations together comprise 1,500 members who are administrating 64,000 pieces of rental property state-wide.

Tom Hopgood, Montana Association of Realtors, expressed the support of his organization for SB 362.

Marten Behner, Western Montana Landlord Association, stated his organization strongly supports SB 362.

Ronda Carpenter, Income Property Owners and Managers, said the two associations represented by Greg Van Horssen were members of her organization. She stated tenants are often asked to move because they are damaging the property. She added the current statute does not allow for a quick resolution of such situations and allows those tenants to stay in those rental units and continue to do damage. She said current statute gives landlords no recourse in such situations; they have to pay for repairs as well as suffer the loss of rent during the waiting period. She noted that the potential for violence also increases in such situations.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

Senator Halligan asked James Screnar if the time period SB 362 would impose on the justice and district courts would cause scheduling problems. Mr. Screnar replied that SB 362 would probably cause some scheduling problems, but added that most of the hearings in such cases are fairly short.

Closing by Sponsor:

Senator Bianchi noted that SB 362 was the first piece of legislation he had presented which had not attracted any opponents. He stated SB 362 is a fairness act and a piece of legislation which would make the situation better for the citizens of Montana.

HEARING ON SENATE BILL 386

Opening Statement by Sponsor:

Senator Wilson, Senate District 19, said SB 386 is a simple bill representing an attempt to expedite the proceedings involving actions for possession in the landlord tenant context. He stated that prior to 1991, actions brought for possession in justice court were required to be answered within 10 days under the rules for procedure applicable to those courts. He added that in 1991 changes were adopted which made the Montana Rules of Civil Procedure applicable to proceedings in city and justice courts. He noted that this change effectively doubled the period of time in which a defendant was allowed to answer a complaint in an

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE February 18

NAME	PRESENT	ABSENT	EXCUSE
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

DATE 2-18-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: ^(RUL) S.B. 333 SB 336 Yellowtail
S.B. 349 Christiansen SB 362 Bianchi
S.B. 386 Wilson

Name	Representing	Bill No.	Check One	Support	Oppose
Toy Bruck	LWV OF MONTANA	336	☒		
James Screener	Jerry Jensen Landlord	362	☒		
Jerry Swenson	MDT	333		☒	
John Connor	MT CTY ATTY ASSN	333			☒
PATRICK CHENOVICK	SUPREME COURT	336	☒		
CRAIG L HOPE	MT. MAGISTRATE ASSN	333			☒
Ed McLean	Dist Judges	333 336	☒		☒
Ronda Carpenter	Income Prop Owners & Mags	349 362 386	☒		
Ken L. Lischer	Income Property Owners & Mags	349/362 386	☒		
Russell B Hill	Mont Trial Lawyers	SB 333 SB 336			☒
John Van Mow	MYSELF	SB 362 SB 386			
DORCEAN STEFFESSEN	Myself	333	☒		
LAVERNE ERDMAN	Myself	333	☒		
Judith Russell	myself	333	☒		
Greg Van Horssen	IPMA/MLA	349, 362, 386	☒		
Rick & Prudence Gilbey	ourselves	333	☒		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-17-93

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: SB 333, 336, 362, 386

Name	Representing	Bill No.	Check One	
			Support	Oppose
PICKET D. LINCOLN	Justice Clerk	349/362 362	✓	
A. M. (Rud) Elwell	WCSNH / MWW	SB 333	✓	
Tom Hopgood	St. Bar of Mont	336	✓	
Tom Hopgood	Mt. Assn. Realtors	349 362 386		
GENE PHILLIPS	NATH - STATE BAR	SB 333		✓
Mr. Keeney	Montana Ref. Assn. Pia? Keeney	SB 333		✓
Marni Hoppes	Conrad FFA Chap	SB 333		
Joan Mink	Conrad FFA Chap	SB 333		
Beth Baker	Dept of Justice	SB 333		✓
Beth Baker	Dept of Justice / Mt. County Attorneys	SB 336	✓	
Gary S. Marbut	GA, MSSA, WMFOA B'SPSC	SB 333	✓	
Alton S. Blum	Sell	362	✓	
Jaqueline Benmark	AIA	333		✓
Jaqueline Benmark	State Bar of Mt	336	✓	
M. Turnage	Chief Justice	336	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Vote:

Senator Grosfield asked Ms. Lane to draft an amendment to take out the indexing in SB 336.

Senator Crippen told the Committee he would oppose SB 336.

Motion:

Senator Harp moved SB 336 DO NOT PASS.

Discussion:

Chair Yellowtail told the Committee he would rather have SB 336 Tabled.

Motion:

Senator Harp made a substitute motion to TABLE SB 336.

Discussion:

Chair Yellowtail told the Committee if SB 336 was not passed, judges salaries would remain frozen until the next biennium. The judges are only asking to be treated as other state employees, which was fair and reasonable.

Senator Crippen asked Senator Halligan about the Governor's salary. Senator Halligan said the Governor's salary was increased when the state employees salaries were increased.

Chair Yellowtail said SB 336 would be held until further information was made available concerning salary increases for elected officials

Senator Harp WITHDREW his motion to TABLE SB 336.

EXECUTIVE ACTION ON SB 386Motion/Vote:

Senator Harp moved SB 386 DO PASS. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 362Motion/Vote:

Senator Halligan moved SB 362 DO PASS. The motion CARRIED UNANIMOUSLY.

ROLL CALL

SENATE COMMITTEE Judiciary DATE 2-19-9

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	✓		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 19, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 362 (first reading copy -- white), respectfully report that Senate Bill No. 362 do pass.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair